THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17025 of 2006

Dated:18.08.2006

Between:

Javvadi Govinda Rao, and others.

…Petitioners

and

Joint Collector and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17025 of 2006

ORDER:

The petitioners, who are fourteen in number, filed the instant Writ Petition assailing the notice/order issued under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905 (the Act, for brevity), directing that the encroachment made by the petitioners be removed from the land in Survey No.156/1 admeasuring Acs.7.45 cents situated at Billanandur Village, Kotanandur Mandal of East Godavari District. The said order was issued by the second respondent on 18.07.2006.

The learned Counsel for the petitioners contends that the petitioners herein are in occupation of the land which forms part of Kottam Estate and in respect of which applications filed under Section 11 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short, the Estates Abolition Act') are pending before the Settlements Officer-cum-Joint Collector, East Godavari District, and therefore, the second respondent is precluded from proceeding under the Land Acquisition Act, 1894 (for short 'the Land Acquisition Act'). He relies on the notice in reference No.F1/1087/2005, dated 13.07.2006, issued by the Settlements Officer-cum-Joint Collector, East Godavari District, to petitioner No.1 herein and five others of Billanandur Village calling upon them to appear before him with all documentary evidence. **Per contra,** the

learned Assistant Government Pleader for Revenue (General) submits that even when the enquiry under the Estates Abolition Act is pending, it is permissible to the Tahasildar to proceed under the Land Acquisition Act if the encroachment/occupation by the petitioners is found to be objectionable. This Court finds considerable force in the said submission. Further, as rightly pointed out by the learned Assistant Government Pleader, against the order of the second respondent passed under Section 6 of the Act, an appeal lies to the Revenue Divisional Officer under Section 10 of the Act and it is always open to the petitioners to avail the same. Further more, the petitioners can even approach the Joint Collector before whom the enquiry under the Estates Abolition Act is pending and obtain appropriate orders to prevent any forcible eviction.

This Writ Petition is misconceived and is accordingly dismissed with the above observations, giving liberty to the petitioners to approach the appropriate authority. No costs.

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(V.V.S.RAO, J)

18.08.2006
vs